

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON RULES**

**Call to Order:** By **CHAIRMAN JOHN HARP**, on January 28, 1999 at  
1:30 P.M., in Room 331 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Sen. John Harp, Chairman (R)  
Sen. Bruce Crippen, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Steve Doherty (D)  
Sen. Lorents Grosfield (R)  
Sen. Mike Halligan (D)  
Sen. Don Hargrove (R)  
Sen. Linda Nelson (D)  
Sen. Chuck Swysgood (R)  
Sen. Mike Taylor (R)  
Sen. Fred Thomas (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Greg Petesch, Legislative Branch  
Fredella D. Haab, Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted:  
Executive Action:

**Greg Petesch, Legislative Service Division**, stated there were two  
fold things in this proposal. S51-20 second reading got omitted  
from the original resolution completely. S51-60 as amended here  
was in the original resolution twice. Once in proper form, once  
without Subsection 2 and 3. We are making sure that both  
versions of the Rule matches so we only print the right version.

S52-10 was completely omitted from the original version and sub 9 of appendix A also dropped off from the original resolution. So those changes make the Senate Rules be what you thought the Senate Rules were when you adopted SR1. The first two changes on this to S30-60 from S50-90 are proposed to existing rules.

**CHAIRMAN HARP** asked if when we look on Page 1 line 12, that was new, and if we look on Page 1 starting at line 22, that was new. Everything else was existing in our Rules. We diverted having Second Reading in our Rules when we passed Senate Rules #1 about ten days ago. We discovered it after it was passed.

**SENATOR TOM BECK** asked if a minority report is Submitted after majority report but there was no debate on Order Business #2?

**Greg Petesch** stated that was correct as written.

**SENATOR BECK** asked what Order of Business the debate would then proceed?

**Greg Petesch** said it would revert to Order of Business #6.

**SENATOR MIKE HALLIGAN** thought there should be some debate at that point.

**CHAIRMAN HARP** said there was discussion of what was included in the minority report but not a debate.

**SENATOR HALLIGAN** said he really didn't recall but we really want to get our points across. He recollected having far more time on that minority report than what you are contemplating here.

**PRESIDENT CRIPPEN** stated it didn't really have very much to do with the debate except the priority in which it was put on. We have never had a priority item in here. As he remember in the past you voted on the minority report before you voted on the majority report. That was my understanding. That was why he put down the minority report was submitted after the majority report. He didn't think it should be debated on Order of Business #2.

**SENATOR CHUCK SWYSGOOD** thought the bill said no debate reports of standing committee shall be on Order of Business #2 and no debate may be held on any report unless a minority report has been submitted. He took that to say if a minority report was submitted a debate would follow.

**SENATOR HALLIGAN** said it was like the speed limit where you get to hear both sides of the aisle. A minority of the committee wants to bring a different kind of a speed limit bill. The

majority report was given and then the minority stands up to make their point. There was a debate because that was what it said. We have a whole debate on Order of Business #2.

***{Tape : 1; Side : A; Approx. Time Counter : 6.7}***

**PRESIDENT CRIPPEN** realized that the language was in there and he thought clarification was needed. Keep in mind the reason there was no debate on Order Business #2 was because this was just a report. It doesn't mean you can't have one but you generally don't do it because you are not in a form where you can debate the substance and the issues which were contained in a particular legislation. You do that in Order of Business #8 as a Committee of the Whole. The reason it says unless a minority report has been submitted was that when a minority report was submitted then those folks in the minority would have an opportunity to stand up and give the rationale, we had a minority to give and it was as follows. Normally when we had it and when he had been the chair he would assign the minority report to somebody and they would handle it just like they would assign the adverse committee report to somebody but you do it at that time. You can debate it but if you debate it you are going to end up debating it twice. It defeats the merits of the bill. If you weren't debating the merits of the bill, that was fine. You can debate the motion to whether you should accept the minority report but you are not going to debate the substance of the bill.

**CHAIRMAN HARP** said if you are on Business #2 and you have a majority and a minority report if you don't resolve that question right there, what was going on during Second Reading? Nothing.

**SENATOR BECK** said what happens most of the time was the majority report would not go to Second Reading. The reason for the minority report was to try and get it on Second Reading.

**SENATOR GROSFIELD** stated a minority report was essentially a Substitute motion. We moved the majority report and the minority report, if there was one, was a substitute motion. You debate that motion and if it passes then that was what you deal with. If it failed, you go back to the committee report and there was no debate.

***{Tape : 1; Side : A; Approx. Time Counter : 10.8}***

**CHAIRMAN HARP** thought that the way it was working prior to the proposed change was fine. He thought they had a clear understanding on how it works.

**SENATOR GREG JERGESON** said he found the whole idea of trying to limit the debate to a motion very difficult. If you end up with a committee so divided and you come up with a minority report but a debate on the Substance of the issue rather than having to describe that the committee was somewhat unfair to the sponsor or didn't treat the hearing process properly. He thought that was what you are reduced to if somehow you talk about motions and the reason you need the Senate to bring this out to debate the substance was because something went on that was unfair. You could have extremely fair hearing and extremely fair debate among the committee members and they are deeply divided about the Substance of an issue and that ought to be what constitutes the reason why the Senate would make a decision and considering where these case are clearly or likely to be the bill. He thought the public had a right to have an idea why the Senate made a decision it did and it would be better than saying that the committee treated me unfairly and we get into this whole problem of accusations of uncivility and whatever.

**PRESIDENT CRIPPEN** needed some direction. You can make a motion to do not pass in Order of Business #8 and debate essentially a minority report if you so choose. We did that and he didn't think it was good practice to debate the Substance of a bill on order Business #2.

*{Tape : 1; Side : A; Approx. Time Counter : 14.5}*

**CHAIRMAN HARP** stated the reason why the minority report comes to the Senate was so the minority has a voice. He didn't think it had ever been abused.

**SENATOR BECK** asked if an adverse report and a minority report were the same thing?

**Greg Petesch** said an adverse committee report was do not pass. A minority committee report can be to pass as amended, if the majority report was simply do pass, or it could be do not pass, it could be simply do pass if the majority report was do pass as amended.

**SENATOR HALLIGAN** said if it was a substitute motion and if it passed, then it extinguishes the primary report.

**Greg Petesch** said you could only do one committee report. Either the majority or the minority.

**RESIDENT CRIPPEN** asked **Mr. Petesch** if in all those instances that you gave, can you do that during Order of Business #8?

**Greg Petesch** thought you could. The question was what goes to Second Reading.

**SENATOR SWYSGOOD** stated that they certainly do not place a minority report on Second Reading. That has to be done on Order of Business #2.

**SENATOR STEVE DOHERTY** said that if there was a minority report it had to be debated on the Substance of the bill.

*{Tape : 1; Side : A; Approx. Time Counter : 18}*

**CHAIRMAN HARP** asked if a minority report was submitted after a majority report and the majority report was adopted the committee report could not happen before the minority report. The minority would not have an opportunity to give the report. Was that how we want it to read?

**SENATOR HALLIGAN** said the Chairman stands up and makes a majority report and then they recognize the minority.

**CHAIRMAN HARP** thought they should leave it alone. Obviously the minority report was fully debatable in the Senate.

**Motion/Vote:** SEN. BECK MOVED THE RESOLUTION. Motion carried unanimously.

**CHAIRMAN HARP** said the next was line 22.

**PRESIDENT CRIPPEN** wanted to put the motion to reconsider at rest. There was nothing in our Rules according to **Mr. Petesch**. We need to define what we do on a motion to reconsider. He thought it was better to have it in there so that people understood it especially when we get into term limits. It was a debatable motion but the debate was limited to the motion.

*{Tape : 1; Side : A; Approx. Time Counter : 20.5}*

**SENATOR BECK** thought you had debated it the day before so you should have it fairly fresh in your mind what the issue was.

**SENATOR SWYSGOOD** stated that if you were making a motion to reconsider and as a sponsor of that bill you would stand up and make a motion to reconsider. Your argument for that would be you have some other information here to present to the body that was not available before.

**SENATOR DOHERTY** said he agreed with all that and obviously the Chair was going to have discretion on how it was handled.

**SENATOR HALLIGAN** thought there had to be an inherent description of what was being changed. There had to be latitude allowed.

**SENATOR BECK** said it gave the Chair some discretion or guidance to say, he can limit the debate on this when it does get off the motion. He thought there were times no matter which party was in the chair or whatever, it can get completely out of hand. He has to have some authority to bring it back to the context of the motion.

**SENATOR HALLIGAN** agreed it ought to stay on the motion but we have always allowed some latitude.

**SENATOR JERGESON** stated maybe the discretion of the Chair would be appropriate because it was a motion to consider an adverse committee report. The legislator wants to talk about the bill on the floor.

**CHAIRMAN HARP** disagreed with **SENATOR JERGESON**.

**PRESIDENT CRIPPEN** thought it was at the discretion of the presiding officer.

**SENATOR BECK** moved the amendments.

**SENATOR HALLIGAN** wanted the minutes to reflect that we were allowing some latitude as far as what some of that discussion at the discretion of the chair that was reasonable .

**CHAIRMAN HARP** stated that the Rules they were adopting were not just for this Session but will have a good chance of extending into the next few sessions.

**Motion/Vote:** **SEN. BECK** moved **THE AMENDMENTS**. Motion carried unanimously.

**CHAIRMAN HARP** asked if there were any other amendments to the Rules that were currently already in the Rules. Line 23 - line 27 on Page 2 pertaining to the closing of a bill rather than using our old way of definitely postponed.

**SENATOR SWYSGOOD** guessed his perspective on this was, yes that might be the case. The Rules says the obverse in effect. Until you take out the rule that allows you to make an indefinite postponed motion then that motion was valid and a vote must be taken on that regardless of what this rule says. If a member so desires that he wants to find out if that motion was acceptable as long as it was in the Rule book and it was done at the proper time. It was a valid motion.

**SENATOR BECK** asked if before this amendment was put in there, was it definitely postponed.

**CHAIRMAN HARP** said it was definitely postponed every time. If you didn't make the motion it stayed on Second Read, but it never happened.

**SENATOR BECK** said he didn't recall it ever happening.

*{Tape : 1; Side : A; Approx. Time Counter : 28.6}*

**CHAIRMAN HARP** said **SENATOR AKLESTAD** thought he was going to save five seconds of the Senate's time on this thing and we spent 45 minutes on this and we worked around with it on Saturday so it really hasn't solved the problem.

**SENATOR BECK** wanted to know why they didn't eliminate that and go back to the indefinitely postponed and we will just do that on any bill that gets voted down if somebody so desires so.

**SENATOR SWYSGOOD** stated they knew what was happening then. He like definitely postponed.

**SENATOR BECK** moved they take Section 2 out.

**Greg Petesch** said this proposed amendment would replace the existing Sub Section 2 in the bill with a statement that a motion on Second Reading must be disposed of by a positive vote which I believe was the indefinitely postponed positive vote would do that. Or it could be, that it would be tabled in committee of the whole and that was also a positive motion.

*{Tape : 1; Side : A; Approx. Time Counter : 28.6}*

**SENATOR BECK** asked on Section 3 if a motion under Section 2 fails on, it remains on Second Reading. Does that have to come out? If a motion fails on a tied vote, the bill remains on Second Reading. That was what I want in here.

**Greg Petesch** stated if a motion on Second Reading fails on a tie vote, the bill remained on Second Vote. This was inserted in case there was a tie vote, the bill did not fail. In committee a motion fails on a tie vote, on Second Reading it was put in to clarify that the bill was not dead because of a tie vote.

**SENATOR HARGROVE** offered a Substitute motion to strike Sub 2 on Page 2 and replace it with this amendment which is a new Sub 2.

**Greg Petesch** thought this amendment could replace 2 and 3 if you so desired. The only thing different is we would strike through line 28 in its entirety.

**Substitute Motion/Vote:** **SEN. HARGROVE** made a Substitute motion **SECTIONS 12 AND 3 BE ELIMINATED. Substitute motion carried unanimously.**

**CHAIRMAN HARP** said the last item was on Page 3, line 2.

**Greg Petesch** said if that passes, it would be law and would override your rule to the contrary anyway. That would have to go to the House anyway in order for it to become law. If it was passed and approved it would control for this Session regardless. We would conform the Rules next time.

**CHAIRMAN HARP** asked for further discussion on SR2 as amended.

**Motion/Vote:** **SEN. BECK** moved **AMENDMENT. Motion carried unanimously.**



---

**ADJOURNMENT**

Adjournment: 2:15 P.M.

---

SEN. JOHN HARP, Chairman

---

Fredella D. Haab, Secretary

JH/fdh

**EXHIBIT (rus22aad)**